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SENATE BILL 2194  
By Crowe

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 1, relative to providing information to prospective employers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, is amended by adding Sections 2 through 5 of this act as new sections to be appropriately designated.

SECTION 2. As used in this act:

(1) "Employer" means any person, partnership, for profit or nonprofit corporation, limited liability corporation, or other entity that employs one or more employees.

(2) "Employee" means an individual employed by an employer.

(3) "Former employee" means an individual who, at any time in the past, was employed by an employer.

(4) "Prospective employer" means any person, partnership, for profit or nonprofit corporation, limited liability corporation, or other entity the employer reasonably believes is considering the employee or former employee for a job position.

SECTION 3. An employer that, upon request of a prospective employer, employee, or former employee, discloses information concerning the job performance, disciplinary record, reason for discharge, or other job-related information of an employee or former employee is presumed to be acting in good faith, and unless a lack of good faith is proven by clear and convincing evidence, is immune from civil liability for disclosure of information or its consequences. The presumption of good faith may be rebutted only by clear and convincing

evidence proving that the information disclosed by the employer was knowingly false, deliberately misleading, given with malicious purpose, or in violation of Tennessee Code Annotated, Title 4, Chapter 21.

SECTION 4. An employer that discloses information concerning the job performance, disciplinary record, or reason for discharge of an employee or former employee to the employee's or former employee's co-workers is presumed to be acting in good faith, and unless a lack of good faith is proven by clear and convincing evidence, is immune from civil liability for disclosure of information or its consequences. The presumption of good faith may be rebutted only by clear and convincing evidence proving that the information disclosed by the employer was knowingly false, deliberately misleading, given with malicious purpose, or in violation of Tennessee Code Annotated, Title 4, Chapter 21.

SECTION 5. An employer that discloses information concerning the job performance, disciplinary record, or reason for discharge of an employee or former employee to customers or clients served by the employee or former employee is presumed to be acting in good faith, and unless a lack of good faith is proven by clear and convincing evidence, is immune from civil liability for disclosure of information or its consequences. The presumption of good faith may be rebutted only by clear and convincing evidence proving that the employer had no business justification for disclosing the information; or the information disclosed by the employer was knowingly false, deliberately misleading, given with malicious purpose, or in violation of Tennessee Code Annotated, Title 4, Chapter 21.

SECTION 6. Disclosure to Government. An employer that discloses information concerning the job performance, disciplinary record, or reason for discharge of an employee or former employee to a governmental agency, whether voluntarily or upon request or demand by the governmental agency, shall not be subject to civil liability for defamation (libel or slander), invasion of privacy, or other civil tort action unless a lack of good faith is proven by clear and convincing evidence. The presumption of good faith in a civil defamation action may be rebutted only by clear and convincing evidence proving that the information disclosed by the

employer was knowingly false, deliberately misleading, given with malicious purpose, or in violation of Tennessee Code Annotated, Title 4, Chapter 21.

SECTION 7. Nothing contained in this law is intended to, or shall apply to, any legal causes of action except defamation (libel or slander), invasion of privacy, or other related tort legal actions. Nothing in this law is intended to change the substantive or procedural provisions of any governmental regulatory law, including, but not limited to, the workers' compensation, unemployment compensation, wage and hour, and equal employment laws.

SECTION 8. Tennessee Code Annotated, Section 50-1-105, is amended by deleting the section in its entirety.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

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